IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No 57 of 2002

in

COMPANY PETITIONNo 32 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIKRAM P. PALKHIWALA

Versus

O.L. OF NEW JAGAT TEXTILE MILLS PVT. LTD.

Appearance:

1. COMPANY APPLICATION No. 57 of 2002

MRS SWATI SOPARKAR for Petitioner No. 1

OFFICIAL LIQUIDATOR for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 19/02/2002

ORAL JUDGEMENT

Rule. The Official Liquidator waives service of Rule. In the facts and circumstances of the case, the application is taken up for final disposal today.

2. This application is filed seeking for a direction against the opponent, namely the Official Liquidator, to permit the applicant to file and/or represent for and on behalf of the opponent, an appeal before the Income Tax authorities and/or before the Income Tax Appellate Tribunal and/or before this Court and to take consequential/incidental / related steps for and on behalf of the New Jagat Textile Mills Pvt. Ltd. (in liquidation).

3. The learned counsel for the applicant states that the applicant is desirous of rendering his services and the services of his Chartered Accountant looking after the affairs of the Company, to contest the tax liabilities sought to be thrust upon the Company by the Income-tax Department and that neither the applicant nor his Chartered Accountant nor their lawyer will seek any remuneration from the Official Liquidator or from the Company in liquidation for rendering such services and all expenses in this regard shall be met with by the applicant from his own fund. The learned counsel further relies upon the order dated 3-5-2001 passed by the Company Court in Company Application No.152 of 2002 and cognate applications wherein also the same relief was prayed for in respect of some other Companies.

4. The learned Official Liquidator submits that the conditions which were imposed by this Court in the aforesaid order dated 3-5-2001 may also be imposed in this case and that the Official Liquidator would now proceed on the basis that all the work regarding contesting the income-tax liabilities of New Jagat Textile Mills Pvt. Ltd. (in liquidation) will be looked after by the applicant.

5. Having heard the learned counsel for the applicant and the learned Official Liquidator, following the aforesaid order dated 3-5-2001 of this Court, the following order is passed in this application:-

Subject to the conditions that the applicant shall not seek any reimbursement of any expenses of any nature and that in case the Official Liquidator has already engaged a Chartered Accountant for New Jagat Textile Mills Pvt. Ltd. (in liquidation), the expenses incurred by the Official Liquidator will be reimbursed by the applicant and that the applicant shall keep the

Official Liquidator informed of the developments in these income-tax matters.

6. Subject to the above conditions, the application is granted. Subject to the aforesaid conditions, the Official Liquidator shall permit the applicant to file and/or represent for and on behalf of the Official Liquidator, appeal/s before the Income-tax Authorities and/or before the Income Tax Appellate Tribunal and/or before this Court and to take consequential/incidental/ related steps for and on behalf of New Jagat Textile Mills Pvt. Ltd. (in liquidation).

7. Rule is made absolute. The application accordingly stands disposed of.

(M.S. Shah,J)

zgs/-